

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Priority Mail Contracts
Priority Mail—Non-Published Rates 10
(MC2011-15)

Docket No. CP2011-51

ORDER REQUIRING CERTIFICATION

(Issued January 9, 2017)

On February 3, 2011, the Commission authorized the Postal Service to enter into Priority Mail—Non-Published Rates (PMNPR) contracts based on a model contract, subject to filing “[a] copy of each contract along with the financial model inputs used to generate rates for each contract . . . within a reasonable time, e.g., 10 days of the effective date of the contract.”¹

On December 28, 2016, the Postal Service filed notice of entering into 238 PMNPR agreements with effective dates ranging from January 17, 2016, through December 16, 2016.² The Postal Service also filed a motion requesting that the

¹ Docket Nos. MC2011-15 and CP2011-51, Order Approving Addition of Priority Mail—Non-Published Rates 1 to the Competitive Product List, February 3, 2011, at 9 (Order No. 661).

² Customer Contract Filing Notice for Priority Mail—Non-Published Rates Serial Number Ending: 0010 Through 0247, December 28, 2016 (Notice 0010-0247).

Commission accept the late filing of this “significant backlog” of PMNPR agreements.³ Recognizing its failure to conform with the Commission’s prior requirements for these types of agreements, the Postal Service added that it “expects to utilize the procedures it has developed over the course of this year to provide the Commission with reasonable notice of all future PMNPR agreements, in accordance with Order No. 661, now that the backlog has been cleared.” December 28, 2016 Motion at 2.

On December 29, 2016, the Commission directed the Postal Service to provide by January 6, 2017, “a thorough explanation of why the Commission should not cancel the affected PMNPR agreements in light of the Postal Service’s 243 violations of Order No. 661.”⁴ The Commission also required the Postal Service to “include a detailed description of the steps the Postal Service will take to prevent untimely filings in this proceeding in the future.” Order No. 3714 at 4.

On January 6, 2017, the Postal Service filed its response to Order No. 3714.⁵ The Postal Service states that “in 2016, the Postal Service began for the first time to utilize in earnest the PMNPR approach for domestic volume.” Response at 3. The Postal Service acknowledges that its “response to this tide of new agreements was inadequate and not up to standards.” *Id.* at 4. The Postal Service also acknowledges “[j]udgmental errors and lack of oversight” with respect to its PMNPR review procedures. *Id.* The Postal Service admits that “[h]igher management within the Law Department was unaware of the underlying issues.” *Id.*

The Postal Service states that it had worked to “ensur[e] that every PMNPR contract signed in 2016 was properly identified, cataloged, and reflected in a consolidated financial input file submitted with the Postal Service’s [Notice 0010-0247].”

³ Motion for Late Acceptance of Customer Contract Filing Notice for Priority Mail—Non-Published Rates Serial Number Ending: 0010-0247, December 28, 2016, at 1 (December 28, 2016 Motion).

⁴ Order Requiring Additional Information, December 29, 2016 (Order No. 3714). In addition to the 238 violations listed in Notice 0010-0247, the Postal Service filed late on five prior occasions in this docket. See Order No. 3714 at 2 n.4 and accompanying text.

⁵ Response of the United States Postal Service to Commission Order No. 3714, with Portions Filed Under Seal, January 6, 2017 (Response).

Id. at 4-5. The Postal Service also states that it had “endeavored to file all outstanding PMNPR agreements in one complete, consolidated filing in this docket.” *Id.* at 5. The Postal Service describes that its new PMNPR procedure will involve members of the Sales group tracking PMNPR agreements and their effective dates and reporting twice a week to both the Finance group (to prepare the financial inputs file) and the Law Department (to prepare the notice for filing with the Commission). *Id.* at 5-6.

Also on January 6, 2017, the Postal Service filed notice of five additional PMNPR agreements.⁶ Two of these five PMNPR agreements, which became effective in early January 2017, were filed within 10 days of their effective dates. Notice 0248-0252 at 2. The Postal Service also filed an additional motion requesting that the Commission accept the late filing of three additional PMNPR agreements, which became effective in December 2016.⁷ The Postal Service asserts that these three additional PMNPR agreements were not filed with the Commission within the applicable 10-day timeframe “because the effective date for these agreements was not communicated to responsible Postal Service personnel until [January 5, 2017].” January 6, 2017 Motion at 1. The Postal Service also states the “new procedure [described in the Response] was not in place prior to these three agreements, but will be employed for PMNPR agreements signed in 2017.” *Id.* at 2.

While it appreciates the Postal Service’s candor and explanations in this matter, the Commission remains concerned regarding the Postal Service’s admitted lack of inter-departmental coordination and oversight of PMNPR review that occurred throughout 2016. Moreover, the attempted “omnibus filing” on December 28, 2016, to collect all of the prior agreements, followed by the January 6, 2017 Motion seeking late acceptance of three additional PMNPR agreements, may suggest that the Postal

⁶ Customer Contract Filing Notice for Priority Mail—Non-Published Rates Serial Number Ending: 0248-0252, January 6, 2017 (Notice 0248-0252).

⁷ Motion for Late Acceptance of Customer Contract Filing Notice for Priority Mail—Non-Published Rates Serial Number Ending: 0248-0250, January 6, 2017 (January 6, 2017 Motion); see *also* Notice 0248-0252 at 2.

Service faces additional challenges in its effort to track and account for its backlog of PMNPR agreements.

As a result, the Commission requires that by January 23, 2017, the Postal Service shall file a notice in this docket stating that all PMNPR agreements in effect during calendar years (CYs) 2011 through 2016 (and their respective effective dates) have been identified by filing with the Commission in this docket. The notice shall include a letter from a representative of the Postal Service's Sales group certifying that the Sales group has identified all PMNPR agreements in effect during CYs 2011 through 2016 (and their respective effective dates) to the Postal Service's Law Department. The Commission will not be in a position to issue an order on the two motions for late acceptance in this docket prior to reviewing this certification.

It is ordered:

1. By January 23, 2017, the Postal Service shall file a notice in this docket stating that all PMNPR agreements in effect during CYs 2011 through 2016 (and their respective effective dates) have been identified by filing with the Commission in this docket. The notice shall also include a letter from a representative of the Postal Service's Sales group certifying that the Sales group has identified all PMNPR agreements in effect during CYs 2011 through 2016 (and their respective effective dates) to the Postal Service's Law Department.
2. The Motion for Late Acceptance of Customer Contract Filing Notice for Priority Mail—Non-Published Rates Serial Number Ending: 0010-0247, filed December 28, 2016, and the Motion for Late Acceptance of Customer Contract Filing Notice for Priority Mail Non-Published Rates Serial Number Ending: 0248-0250, filed January 6, 2017, are held in abeyance pending receipt of the certification

requested above in Ordering Paragraph 1 and the Commission's evaluation of it.

By the Commission.

Stacy L. Ruble
Secretary